IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13/02/2004

CORAM

THE HONOURABLE MR.JUSTICE V.KANAGARAJ

CRIMINAL ORIGINAL PETITION No.8149 OF 2003
AND
CRL.M.P.No.2872 OF 2003.

Ms.Arokia Mary Lucia ... Petitioner

-Vs-

1.The State of Tamil Nadu,
rep.by The Secretary to Government,
Home Department,
Fort St.George,
Chennai-600 009.

2.The District Collector,
Villupuram.

3.The Deputy Superintendent of Police,
Gingee,
Villupuram District.

4.Mr.Prabhakaran,
Deputy Superintendent of Police,
Gingee,
Villupuram District.

5.Mr.Chinnaraj
Deputy Superintendent of Police,
Tindivanam,
Villupuram District.

6.The Sub Inspector of Police,
Avalurpet Police Station,
Villupuram District.

7.Mrs.Deivayanai
8.Central Bureau of Investigation
by its Joint Director,
Shastri Bhavan,
Haddows Road,
Chennai-600 006. ... Respondents

Criminal Original Petition filed under Section 482 of the Code
of Criminal Procedure for the relief as stated therein.

For petitioner : Mr.P.Rathinam

^For R.1 to R.6 : Mr.A.N.Thambidurai,
Govt.Advocate (crl.side)
For R.7 : No appearance
For R.8 : Mr.N.Ranganathan,
Spl.P.P. for CBI

:O R D E R
The above Criminal Original Petition has been filed under
Section 4 82 of the Code of Criminal Procedure praying to:
(1) call for the entire records connected with Cr.No.427 of 2002 on the file of the 6th respondent, which is being investigated by the third respondent and quash the same,
(2)direct the respondents 1 to 6 to pay fair, just and reasonable compensation to the petitioner for the foisting of the false case against her and also direct the 7th respondent to pay the amount, as this Court may deem fit and proper, to the Tamil Nadu State Legal Service Authority for her part in the incident; and
(3)direct the 8th respondent to take over the investigation of the case in Cr.No.428/2002 and also the commissions and omissions of a number of public servants in dealing with Cr.No.427/2002, conduct the investigation under the direct supervision of the Joint Director of CBI at Chennai.

2. The petitioner, a practicing Advocate at Gingee in
Villupuram District having enrolled in the year 2001, would submit in her affidavit that she is a social worker working among the downtrodden Dalits in particular the Dalit women; that before her enrolment as an Advocate, she served as a nun of Services Congregation under the Roman Catholic Church for more than a decade and during the said period, she qualified herself as a Staff Nurse and was serving as such in the dispensaries run by the Congregation in the slums of Kolkotta and also at the Maria Matern Hospital, Sargani in Sivaganga District; that when she was serving as such, she came across various incidents of atrocities committed against the Dalits, more particularly the Dalit women and in order to assist the Dalits, she left the Congregation for getting more access to the legal system and as illiteracy and poverty were the main reasons for the sufferings of Dalits, she thought it fit to equip herself to help them in their causes and hence did her M.A.(Political Science) and completed the law course in the year 1998 as a result of which she was able to effectively assist the deprived Dalits, whenever they were attacked and atrocities were committed against them.

3. The petitioner would further submit that she participated
in a number of struggles to espouse the varied causes of Dalits and assisted the victims of Kunduppatti in Kodaikanal (1998), Ogalur of Perambalur District (1999), Chidambaram Poll violence (1999) etc. to get justice to the Dalits by

getting the legal and other reliefs; that she is also instrumental in getting the complaints registered by the Police with regard to five cases of rape; that in the year 2001, when one Rita Mary was gang raped in Sub Jail, Gingee by the four wardens, it was she who first got to know the sexual violence committed on the said Rita Mary and assisted her in bringing the culprits to book; that she also approached this Court in Crl.O.P.No.24090 of 2001 seeking CBI enquiry and compensation to the said Rita Mary wherein this Court was pleased to order CBCID enquiry and also ordered Rs.5 lakhs as compensation to her and now the trial in the said case is progressing before the Fast Track Court No.I, Tindivanam and she is cited as P.W.46 in the said case.

4. The petitioner would further submit that as the case of Rita Mary got wide publicity both in print and electronic media, a number of girls who were lured and raped, approached her for assistance, especially in Gingee Taluk, wherein she was residing for more than 14 years and naturally, to espouse the cause of the victim girls, most of whom are minors and dalits, she had to approach the police stations situated in Gingee Taluk to get their complaints registered and appropriate reliefs are granted; that she had a tough time in getting the complaints registered by the police as the police were totally insensitive coupled with the fact that such cases gave them ample scope for extracting money from the offenders, but however, her perseverance by pursuing the matters with the higher-ups and other statutory bodies made the police to act as per law.

5. Then, citing five cases wherein she assisted the victims, all were either raped or attempted to be raped, in getting the complaints registered by the Police, the petitioner would submit that the local Police were harbouring vengeance towards her as her effective assistance to the victims came in their way of extracting money from the offenders to protect them from law. The petitioner would further submit that while so, on 14.10.2002 night, when she was in her house, one Selvi, a Dalit girl from Ethapattu village, Gingee Taluk, Villupuram District, along with her parents came to her house and informed her that one Muthu, also a dalit of the same village, had committed the offence of rape against her and continued to commit the offence, making her believe that he would marry her and when the local panchayat was approached on 20.9.2002, the said Muthu disowned the offence and the pregnancy and hence the panchayatdars direct ed the victim to approach the police for appropriate action by giving a letter to that effect; that when the victim lodged a complaint with the Avalurpet Police Station on23.9.2002 against the said Muthu, the police did not take any action and therefore she requested the petitioner to help her and hence the petitioner accompanied the said Selvi on 15.10.2002 to the Avalurpet Police Station and insisted the Police to register the case, but the Police registered the case only on 16.10.2002 in Cr.No.423 of 2002.

6. The petitioner would further submit that on 16.10.2002, the said Selvi with her assistance sent a petition by fax to the Chief Minister and having come to know about the involvement of the petitioner in the matter through some reports which appeared in the local newspapers, on 18.10.2002 at about 7.30 a.m., a group of relatives of the said Muthu came and ransacked the residence of the petitioner and assaulted and threatened her

with dire consequences; that even as the attack was on, she rang-up to the Avalurpet Police Station and other advocate colleagues and within 15 minutes, Mr.Inbasekaran and Mr. Kaliyamoorthy, both Constables attached to the Avalurpet Police Station came to her residence, but they could not control the mob and in the meantime Mr.Chiranjeevi, the Sub Inspector of Avalurpet Police Station arrived at the spot on instruction by the 4th respondent after getting information from one Mr.E.S.Jose, Advocate, and only at his arrival, the mob dispersed.

7. The petitioner would further submit that on the same day i.e. on 18.10.2002, evening, herself and three other Advocate-colleagues by names Mr.Jose, Vivekanandan and Venkatesan lodged a complaint with the fourth respondent against the seventh respondent herein, who is the aunt of the said Muthu, and others thus seeking prompt action, who instructed the 6th respondent to summon the accused to be present before him at 10.00 a.m. further requiring the petitioner also to come to the police station; that the fourth respondent forwarded the complaint to the concerned police station on 19.10.2002 and directed the Sub Inspector of Police to register the FIR and even though the Sub Inspector of Police received the complaint on 19.10.2002, he did not register the FIR nor did he take any action against the persons named in the complaint; that in the morning of 19.10.2002, she was informed that the accused persons named by the said Selvi appeared before the Avalurpet Police Station and they were accompanied by more than 100 persons secured in a lorry under the leadership of one Sakkarai of Paruthipuram Village, who is known for his nexus with the Avalurpet Police and who used to settle cases by extorting money from the parties and sharing with Police; that however, at about 1.30 p.m., when herself and her advocate-colleagues Vivekanandan and Venkatesan were proceeding towards Avalurpet Police Station, they met the fourth respondent near the Police Station and when they asked him about the enquiry with regard to the complaint, he replied that it was not possible for him to give protection to the petitioner all the time and therefore it was better for her to compromise the matter.

8. The petitioner would further submit that on 21.10.2002, a local Tamil Daily `Nam Dhinamathi' carried a news item, wherein it is reported that a complaint had been preferred by the seventh respondent herein, as if the petitioner abused her by making a mention of her caste name when she came along with others to the petitioner's house on 1 8.10.2002 with regard to the complaint preferred by Selvi of Ethapattu, and it was clear from the news report itself that the complaint was a counter blast to the complaint lodged by the petitioner and even though the 4th respondent was aware that the complaint preferred against the petitioner was totally false, the Police had deliberately registered the FIR in Cr.No.427 of 2002 for the offence punishable under Section 3(1)(x) of the SC & ST Act based on the said false complaint as if it was preferred earlier and registered her complaint preferred on 18.10.2002 only on 20.10.2002 to make it appear that they were acting promptly; that she was shocked over the sheer abuse of powers by the police, who were harbouring vengeance towards her and hence she sent a detailed representation dated 22.10.2002 to the respondents 1 and 2 and others but till date no action is initiated; that when the 5th respondent was

in-charge of DSP, Gingee as the 4th respondent was on leave, she met him at Valathi P.S. on 23.12.2002 at about 11.00 a.m. to represent the case regarding the atrocity against dalits of Annamangalam, made by one Rajaram, the 5th respondent warned her that it was not proper on her part to represent, while the FIR is pending against her; that even a number of women, Human Rights and Dalit Activists also have made various representations to the respondents and others to look into the matter and withdraw the false case preferred against her; that she is given to understand that the false complaint is being hotly pursued with the recording of statements of four persons, including the 7th respondent under Section 164 Cr.P.C. only to teach her a lesson for having worked for the Rule of law and assisted the victims to take legal recourse. On such grounds, the petitioner would pray to the relief extracted supra.

9. In support of her case that the complaint registered against her in Cr.No.427 of 2002 is a false one, the petitioner would also submit two supporting affidavits filed by one Mr.E.S.Jose, a practicing Advocate at Thiruvannamalai and one Mr.Bakiyaraj who is a neighbour of the petitioner who will submit in their sworn affidavits that the petitioner is dedicated for the upliftment of the down-trodden and women. Mr.Bakiyaraj would further submit that he never heard her using filthy language against anybody even though the mob attacked and ransacked her house and that only a false case has been filed against her.

10. During arguments, the learned counsel appearing on behalf of the petitioner would not only lay emphasis on those aspects covered in the above Criminal Original Petition but also would lay emphasis that the complaint in Crime No.427/2002 registered on the file of the 6 th respondent and investigated into by the 3rd respondent is an utter false case foisted by these police officials joining hands with the accused party in the rape case and picking-up the complainant who is the close relative of the said Muthu who raped the victim Selvi in the rape case registered in Crime No.423 of 2002 by the same police against one Muthu and five others on 16.10.2002 and the complainant since being the interested party, the police in order to curb the petitioner and such of her social activities in helping those who are under privileged in the society, have deliberately foisted the case particularly by the third and 6th respondents.

11. The learned counsel citing various complaints lodged in quick succession, the first one by one Selvi, the victim of rape by accused Muthu, in the 6th respondent's Cr.No.423/2002 and thereafter the complaint lodged by the petitioner herein and the complaint lodged by the complainant in this case against the petitioner, would submit that the police have chosen not to register the case on the complaint of the petitioner immediately, but in a relaxed manner, after registering the above false case against the petitioner under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act on 20.10.2002 in Cr.No.427 of 2002, they have registered the case on the complaint of the petitioner subsequently in Cr.No.428 of 2002 as though the petitioner's complaint is the later complaint and that the other complaint is the earlier one in spit e of the other complaint having been lodged two days after the preference of the complaint by the petitioner.

12. The learned counsel would also cite the following cases:
1. 1996-1-L.W. (Crl) 110 (B.CHANDRA vs. STATE OF TAMILNADU AND OTHERS)
2. 1999-2-L.W. (Crl) 871 (P.ALAGARSAMY vs. STATE OF TAMIL NADU AND OTHERS)

3. 2003-1-L.W.(Crl).181 (NIRMALA RANI vs. STATE OF TAMIL NADU AND OTHERS)

13. So far as the first case cited above is concerned, the petitioner therein had not only prayed for setting at liberty one Sahadevan but also would seek a direction to the respondents to pay just and equitable compensation to the petitioner besides praying to order an independent and impartial enquiry by the officer of a CBI to go into the whole incident in which the Division Bench of this Court sitting on the judgment of a HCP had not only granted the first two reliefs, ordering a compensation of Rs.50,000/= to be paid by the State Government to the petitioner and her husband but declined to grant the third relief to transfer the case to the CBI but issued direction to the Inspector General of Police (Crimes) CBCID to register the case and investigate into and file the final report against the erring officials as early as possible further directing to expedite the trial in STC No.628/1994.

14. In the second judgment cited above, in a similar case registered, when improper and biased investigation was conducted by the police on the complaint lodged by the petitioner therein under the SC & ST (PA) Act, the respondent police therein have filed the charge-sheet only under the provisions of IPC thus ignoring the provisions of the SC & ST (PA) Act, a learned single Judge of this court, while discrediting the manner in which the investigation was conducted by the respondent Police, would also hold the proceedings conducted before the Court of Judicial Magistrate, Devakottai as illegal.

15. In the third judgment delivered by this Court in a similar case mala fide registered against the petitioner therein, who is also a practising lady Advocate, this Court found that the same had been unreasonably and unlawfully foisted against the said Advocate without following the procedures established by law and had ultimately allowed the criminal original petition quashing the charge sheet besides directing the respondent/Assistant Commissioner of Police, Srirangam to pay a compensation of Rs.25,000/= to the petitioner from out of his pocket.

16. The learned counsel would point out that the facts and circumstances arising out of the third judgment above are quite similar to that of the case in hand and would seek to apply the norms evolved therein in the present case also.

17. On the other hand, on the part of the learned Government Advocate on the criminal side appearing on behalf of the respondents 1 to 6 in the presence of the learned Special Public Prosecutor for CBI appearing on behalf of the 8th respondent with no representation made on behalf of the 7th respondent, in spite of service of notice and printing her name in the list, would submit that the respondents have registered all the cases true to the facts and circumstances and at the right time particularly the case registered

against the petitioner in the 6th respondent's crime No.427/2002 against the petitioner under the penal provisions of the SC & ST (PA) Act and that in the statement recorded under Section 164 Cr.P.C. statement also, the complainant therein/the 7th respondent has spoken to the operative portion of the statement uttered on the part of the petitioner and therefore there is no doubt regarding the said occurrence having taken place at the place, time and in the manner alleged and there is no necessity on the part of this Court to cause its interference into the same and would ultimately pray to dismiss the above criminal original petition.

18. On the part of the learned Special Public Prosecutor, CBI, he has nothing to say excepting to remark that it is not a case which could normally be dealt with and investigated into by the special establishment such as CBI, which is meant for different purposes and on specific directions issued by the Court and authorities concerned and therefore would feel that the authorities who registered the case themselves are the competent to investigate into so as to file a final report at the earliest and would pray to dismiss the above criminal original petition.

19. In consideration of the facts pleaded, having regard to the materials placed on record and upon hearing the learned counsel for the petitioner and the respondents 1 to 6 and 8 with no appearance made on the part of the 7th respondent in spite of notice, what could be assessed by this Court is that the petitioner, besides being an Advocate, has been doing yeoman service to the poor and needy particularly the women and those who are in the lowest wrung of the Society, getting herself associated with men and women of similar dimension of thinking and getting themselves involved in activities of such nature with the general honest thought and common good of the weaker sections of the Society, who are unable to bear with the onslaught of the privileged and plenty, initially having served as a nun of the Roman Catholic Church for a decade, side by side getting herself qualified as a Staff Nurse and serving in dispensaries run by the Services Congregation in the slums of Kolkata and later in Sivaganga District of Tamil Nadu and without being able to bear with the atrocities committed to the weaker sections and the women in the Society and with such fervent hopes to redress their grievances and relieve their pain, she gained access into the legal system and getting herself qualified as a Master Graduate in Political Science, also did her law and came out successful so as to get herself enrolled as a Lawyer in the year 1998.

20. A long list of the participation of the petitioner in her struggles and battles, particularly to curb the social evils to the weaker sex, the women, and to get justice to them in lending a helping hand, would be furnished of which her relentless efforts made in exposing the criminals particularly disguised in white collar and khaki uniforms in the gang rape on an innocent, helpless, poor girl Rita Mary which would be highlighted but would lament that her efforts though not appreciated by those in power in different capacities so as to go into the annals of history, she would feel contended in putting up a relentless legal battle not only to effectively prosecute those who indulged in the gang rape case which is being tried by the Fast Track Court of Tindivanam, herself being cited as a prosecution witness (P.W.46) in the said case, but also would feel happy in getting an award of

compensation to the victim through this Court.

21. The petitioner would further allege that encouraged by the wide publicity given in print and electronic media, many girls, who were lured and rapped and betrayed, started approaching her for help and in her attempt, she had to approach the respondent police for interference in registering the cases and prosecuting those who were responsible for such calamities to occur to uncared innocent and defenceless creatures in the society, particularly respondents No.3 to 6, and one such case reported to her is that of one Selvi, a Scheduled Caste girl from Ethapattu village of Gingee Taluk who informed her that one Muthu of the same village, alluring that he would marry her, but with intent to cheat, committed rape on her resulting in the said Selvi becoming pregnant and the said Muthu not only declining to marry her but also disowning his responsibility towards the paternity of the child.

22. This case having been forwarded by the petitioner to the respondents No.4 to 6 on 23.9.2002 and in spite of having lodged a complaint since there was no response, again accompanied by the victim, she went to the police station on 15.10.2002 and insisted the police to register the case as a result of which the Avalurpet Police ultimately registered the case on 16.10.2002 in their crime No.423/2002 and the same having appeared in the local newspapers, on 18.10.2002 at about 7.30 a.m., a group of relatives of the accused Muthu came and ransacked the petitioner's house besides threatening her with dire consequences and the police having been summoned, further untoward incident got averted and on the same day, she lodged a complaint against nine named and 20 unnamed accused; that the 4th respondent having received the said complaint, forwarded the same to the Avalurpet Police Station on 19.10.2002 directing the Sub Inspector of Police to register the FIR and in spite of the said authority having received the complaint on 19.10.2002, he did not register the FIR. But all the respondents 3 to 6 conspiring with each other, have registered a false case against the petitioner under the penal provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act on a complaint dated 20.10.2002 lodged by the 5th accused in the criminal case lodged by the petitioner who is the aunt of the accused in the rape case and the 7th respondent herein.

23. It is the definite case of the respondents 3 to 6 that the complaint of the 5th accused in this case viz. Deivayanai had been lodged only on 20.10.2002 but the 6th respondent/Sub Inspector giving colour, as though the said Deivayanai had lodged the complaint first and the complaint of the petitioner had reached him subsequent to that, had registered the case against the petitioner on the complaint of Deivayanai in his Cr.No.427/2002 and subsequently registered the case of the petitioner in Cr.No.428/2002, which is patently false and manipulated since glaringly it is seen that the complaint of the petitioner had been lodged on the same day of occurrence that was on 18.10.2002 with the 4th respondent, he having forwarded the same on 19.10.2002 and in spite of the same having been received by the 6th respondent on the same day, without immediately registering the case, he had kept it pending for a day, probably on the advice tendered by the 4th respondent, thus gaining time for making out the false case in hand against the petitioner, taking advantage of the incident that occurred in front of the house of the

petitioner wherein the accused and others have deliberately gone to the residence of the petitioner and had unleashed violence and criminal activities but without offering any specific detail, in a generalised manner, the case against the petitioner has been registered falsely with criminal intent to cripple the petitioner and in the scheme of making out the above case against the petitioner, the efforts of respondents 3 to 6 do not seem to have been in a smaller measure.

24. For instance, on the face of the complaint lodged by the complainant Deivayanai, it could be ascertained that the complaint is not in her handwriting, which could be distinguished from the manner in which the signature of the complainant has been put in the same complaint, which has absolutely no similarity or nexus to the handwriting of the complaint. It is a mystery and nowhere it is told, much less in the very complaint or in the statements recorded from the accused as to who is the scribe of the complaint. It is relevant to point out that the operative portion of the complaint attributing imputation so as to give way for a case to be registered under the penal provisions of the SC&ST (PA) Act cannot at all be invoked since no one has been particularly stated to have been accused of and very like a false complaint, it is not only in plural but also in a generalised form. Therefore, the very complaint alleged to have been lodged by the complainant in the case in hand should not have been entertained since she is not an affected party and that she has no locus standi to lodge a complaint of this sort making a general statement that the insulting or offending sttement had been made against all those standing there particularly without any provocation being offered to the petitioner so as to utter even the alleged imputation in the generalised form.

25. Moreover, it is an admitted case on the part of the complainant that they were deeply aggrieved against the petitioner for having championed the cause of the victim Selvi as against her relative boy, the main accused in the rape case and in order to show her anger and protest, the complainant who is none other than the aunt of the accused in Cr.No.423/2002, had admittedly gone to the place of the petitioner and had indulged in unlawful and illegal activities so as to give way for the complaint to be lodged by the petitioner and for the criminal case to be registered by the same police belatedly in their Cr. No.428/2002. Under such circumstances, it is improbable for such an occurrence to have taken place in spite of it being glaringly seen that the complainant and all the other accused in the case registered against them on the complaint of the petitioner are the aggressors and assailants in the manner narrated in the said complaint that being a genuine complaint having come to light on 18.10.2002 itself, and the complaint in the present case, the occurrence of which is alleged to have taken place on one and the same date, time and place, having admittedly been lodged after an inordinate delay of two days, that too without any specific detail or reason assigned for such a situation to arise so as to culminate that an utterance of that sort to have been made on the part of the petitioner, which, under no circumstance, could be reasonably thought of to occur. Therefore, the said complaint, since contained only false, fabricated, manipulated and makebelieve features and materials, advanced in an artificial manner, respondents 3 to 6, without being parties to the making of the same, no such case could have been

woven falsely against the petitioner in these circumstances.

26. On the contrary, the rape case registered in Cr.No.423/2002 by the same police station in which admittedly the complainant's relative boy is an accused in whose support, she went to the place of the petitioner and indulged in criminal activities would only serve as a strong motive for an occurrence of that sort to take place as it is seen in the complaint of the petitioner resulting in the case registered in Cr.No.428/2002 which has served as a motive to register the false complaint against the petitioner in Cr.No.427/2002, the respondents 4 to 6 conspiring with each other and taking two days and preparing the complaint themselves in the name of the complainant thus respondents 4 and 6 acting as the brain behind the whole drama enacted against the petitioner who was a thorn in their flesh systematically exposing their follies in which the complainant seems tobe only a consenting party to lend her name since she was also personally affected in exposing the misdeeds of her close relative, the accused in Cr.No.423/2 002.

27. It could further be seen that not a single witness is named in the belated complaint by two days to have been at the spot at the time of occurrence and this vital aspect also has been given in a generalised form that 'many from the general public witnessed the occurrence'. Therefore, it is safe to conclude that the witnesses examined in this case by the 4th respondent who are all accused in the earlier complaint lodged relating to the case registered in Cr.No.428/2002 had been chosen as a result of afterthought by the respondents No.4 and 6 joining hands with the complainant and making eight out of nine accused in the earlier complaint lodged by the petitioner dated 18.10.2 002 as the witnesses and hence it could also be concluded that as a counter-blast, the police, joining hands with the rapist party, have registered the above case falsely against the petitioner.

28. In fact, the fourth respondent, who referred the complaint of the petitioner dated 18.10.2002 to the 6th respondent and the 6th respondent, who received the same on 19.10.2002, both knew full well as to who were all the accused at the time that the other complaint received by them dated 20.10.2002 from the fifth accused and the 7th respondent including herself. But, in a calculative, cunning and treacherous manner, in order to avoid many shortcomings, without registering the case immediately on the complaint of the petitioner dated 18.10.2 002 and keeping it pending with them, quite against the norms of law and practice for 2 days, they have artificially registered the later complaint, prepared in the name of the fifth accused and 7th respondent herein, in Cr.No.427 of 2002 and thereafter, for name sake, they have registered the complaint of the petitioner in the subsequent Cr. No.428/2002 from which itself conclusions could be easily arrived at that there are manipulations in registering the case against the petitioner in Cr.No.427/2002 on the file of the Avalurpet Police Station, the SHO of which is the 6th respondent, who cannot shirk the responsibility of these manipulations so easily. Since it is a case registered under the penal provisions of the SC&ST Act, even the fourth respondent cannot satisfactorily explain his conduct in manipulating things since without his approval, no case

could be registered by the 6th respondent under the penal provisions of the SC & ST Act and Rules 5 to 7 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 and hence needless to mention that these two respondents are very well at the bottom of the mischief insofar as the foisting of the case in Cr.No.427/2002 and registering the same as the earlier case, two days after the receipt of the complaint of the petitioner filed against the complainant and witnesses in Cr.No.427/2 002 which came to be registered at a later point of time in an artificial manner in Cr.No.428/2002.

29. In the above circumstances, there is no myth in examining those witnesses, who are all the accused in the petitioner's earlier complaint with whom the police have joined hands with, in order to register a false case against the petitioner, under Section 164 Cr.P.C. before the Magistrate and the witnesses also, like the parrots, have repeated distorted and invented the inconsistent facts of the case artificially recorded under Section 161 Cr.P.C. against the petitioner in a mechanical and unbelievable manner and this Court cannot be carried away by such artificially made up case failing to resort to the rescue of persons like the petitioner, which would only amount to encouraging such false cases deliberately foisted to cheat the system which, if not quashed, would only give the way for dishonest and unreasonable officers maligning and marring the authority of law and the judicial convictions.

30. Therefore, with the given opportunity, such falsely registered cases put down with the iron hand would serve the purpose not only to rescue those victims of such cases such as the petitioner from the clutches of those, who register the cases crossing the barriers and norms of law but also would serve as a deterrent measure for such authorities from taking advantage of the loopholes to foist the cases against innocent and service minded persons, who are wedded to the social and right causes, like the petitioner. The grave blunders committed on the part of the respondents No.4 and 6 in a deliberate manner needs severe condemnation and strictures besides awarding a reasonable compensation in favour of the petitioner as it has been sought for in the prayer column of the petition for all the physical suffering and expenses involved in the legal battle and for the mental agony and afflictions that the petitioner has undergone in the last one year and two months, since being invented and inflicted artificially by respondents 4,6 and 7, joining hands with each other and conspiring to register the above false case against the petitioner in Cr.No.427 of 2002 . Hence, this Court is of the view not only to award sufficient and reasonable compensation in favour of the petitioner but also to direct the first respondent/Government of Tamil Nadu to initiate such disciplinary proceedings against respondents 4 and 6 for misuse of authority in registering the false case against the petitioner joining hands with criminals like the accused in Cr.Nos.423/2002 and 428/2002 of Avalurpet Police Station with the view to malign and mar the reputation and to inflict irreparable loss and hardships to the petitioner.

31. Since in the above circumstances, it is not at all desirable to permit the 4th and 6th respondents to handle the cases registered in Cr.Nos.423/2002 and 428/2002 of the Avalurpet P.S., which have to be

investigated into thoroughly and in an unbiased manner, necessarily the investigation of these cases has to be handed over with a special establishment, particularly requiring an Officer of outstanding ability and proven integrity to investigate into and to file the final report at the earliest.

32. The 7th respondent has not contributed in a little measure in the process of foisting the case registered in Cr.No.427/2002 against the petitioner under Sections 3(1)(x) of the SC & ST Act and therefore it is also necessary to impose penalty on her to be paid in favour of the Tamil Nadu State Legal Services Authority, as prayed for on the part of the petitioner.

In result,
(i)the above criminal original petition succeeds and the same is allowed subject to clause (vii) below.
(ii)The case registered by the 6th respondent in Cr.No.427 of 2002 of Avalurpet Police Station, as against the petitioner, which is being investigated by the fourth respondent is quashed.
(iii) Both Cr.Nos.423/2002 and 428/2002 of Avalurpet Police Station are transferred from the said Police to the CBCID, Villupuram and the Inspector General of Police, CBCID, Chennai, is directed to entrust these two cases with an Officer of outstanding ability and integrity for doing a fair and free investigation so as to file final reports in both these cases, at any cost within three months from the date of receipt of a copy of this order by the Inspector General of Police, CBCID, Chennai.
(iv) The first respondent is also directed to initiate such disciplinary proceedings against the 4th and 6th respondents for having foisted the case in Cr.No.427 of 2002 of Avalurpet P.S. against the petitioner, as against the true facts and circumstances of the case and the norms of law, and award suitable punishments in accordance with the disciplinary rules of the Police force.

(v) In consideration of the status of the petitioner and the injustice meted out to her by the foisting of the case in Avalurpet P.S. Cr. No.427/2002, particularly since being a lady Lawyer, this Court is of the view that a just and reasonable compensation of Rs.1 lakh is to be paid in favour of the petitioner by the first respondent within thirty days from the date of receipt of a copy of this order which could be recovered from the monthly salaries of the respondents 4 and 6 proportionately in instalments, as the first respondent deems it fit and proper which would serve the ends of justice and the same is ordered accordingly.
(vi) The 7th respondent shall pay a penalty of Rs.5,000/= (Rupees Five Thousand Only) within thirty days from the date of receipt of a copy of this order, which has to be remitted to the Tamil Nadu State Legal Services Authority.

(vii) So far as the request of the petitioner seeking direction to the 8th respondent to take over the investigation of the case in Cr.No.428/2002 is concerned, it is decided that in the facts and circumstances of the case, the

question of referring the same to the CBI does not arise at all and hence this request of the petitioner stands rejected.

Consequently, Crl.M.P.No.2872 of 2003 is closed.

Index: Yes
Internet: Yes

Rao

To

1.The Secretary to Government,
Government of Tamilnadu,
Home Department,
Fort St.George,
Chennai-600 009.

2.The District Collector,
Villupuram.
3.The Deputy Superintendent of Police,
Gingee,
Villupuram District.

4.The Deputy Superintendent of Police,
Tindivanam,
Villupuram District.

5.The Sub Inspector of Police,
Avalurpet Police Station,
Villupuram District.

6.The Joint Director,
Central Bureau of Investigation
Shastri Bhavan,
Haddows Road,
Chennai-600 006.

7.The Public Prosecutor,
High Court, Madras.

8.The Special Public Prosecutor
for CBI,
High Court, Madras.

9.The Inspector General of Police,
CBCID, Chennai.

10.Mrs.Deivayanai,
W/o.Murugesan,
Ethapattu Colony,
Gingee Taluk,
Villupuram District.